

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN S. BORAH,

Case No.1-06-CV-651

Plaintiff,

Hon. Richard Alan Enslen

v.

STATE OF MICHIGAN,

JUDGMENT

Defendant. /

This matter is before the Court on Plaintiff John S. Borah's Objection to United States Magistrate Judge Ellen S. Carmody's Report and Recommendation ("Report") of September 28, 2006, which recommends dismissal of Plaintiff's Complaint for failure to state a claim upon which relief can be granted. This Court reviews the Report, Plaintiff's Objection, and pertinent portions of the record *de novo* in accordance with 28 U.S.C. § 636(b)(1)(B).

Plaintiff objects to the Report on the grounds that he believes that Judge Carmody did not research his claims. Plaintiff also claims that the Report was in violation of the United States Constitution, specifically the Fourteenth Amendment Due Process Clause.

After review, the Court finds that, despite Plaintiff's claim that his Constitutional rights were infringed upon, his Complaint still fails to state a claim upon which relief can be granted. As aptly stated in the Report, Plaintiff may not maintain a 42 U.S.C. § 1983 claim against the State of Michigan, as it is immune from suit under the Eleventh Amendment. *See Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 98-101 (1984). Further, the Court agrees with the Report that as to Plaintiff's state law claims, the Court will decline jurisdiction. *See Faughender v. City of N. Olmstead, Ohio*, 927 F.2d 909, 917 (6th Cir. 1991).

THEREFORE, IT IS HEREBY ORDERED that Plaintiff John S. Borah's Objection to the Report and Recommendation (Dkt. No. 6) is **DENIED** and the Report and Recommendation (Dkt. No. 5) is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff John S. Borah's federal law claims are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that Plaintiff's state law claims are **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that dismissal of this action shall count as a **STRIKE** for purposes of 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED that the Court certifies that an appeal from this action would not be in good faith pursuant to 28 U.S.C. § 1915(a)(3).

DATED in Kalamazoo, MI:
November 16, 2006

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE